



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/24/4342**

**Re: Property at 85 Martin Avenue, Irvine, KA12 9NT (“the Property”)**

**Parties:**

**Mr Russell Dunlop, 6 Nursery Avenue, Kilmarnock, KA1 3DT (“the Applicant”)**

**Mr Gordon Thomas Anderson, 12 Longacre Place, Irvine, KA11 1FE (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is liable to pay the sum of Ten thousand four hundred and forty two pounds and seventy one pence (£10,442.71) to the Applicant under the terms of the tenancy agreement between the parties.

The Tribunal therefore made a payment order in the sum of £10,442.71.

**Background**

- 1 This is an application for a payment order under Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant sought a payment order in the sum of £4,482.71, being rent unpaid by the Respondent.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 11 June 2025. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 4 April 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. On 9 June 2025 the Tribunal received an updated rent statement from the Applicant's representative, Wallace Hodge Solicitors. The Tribunal received no representations from the Respondent.

### **The CMDs**

- 4 The CMD took place by teleconference on 11 June 2025. Miss Millie Archibald, Trainee Solicitor, of Wallace Hodge Solicitors represented the Applicant who did not join the call. The Respondent was not in attendance. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in his absence, having been satisfied that he had been given proper notice of the CMD under rule 17(2) of the Rules.
- 5 The Tribunal had the following documents before it:-
  - (i) Form F application form dated 13 September 2024;
  - (ii) Title sheet AYR38173 confirming the Applicant's ownership of the property;
  - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
  - (iv) Private residential tenancy agreement between the parties;
  - (v) Rent statements; and
  - (vi) Copy correspondence from the Applicant's letting agent to the Respondent in accordance with the rent arrears pre-action protocol.
- 6 The Tribunal heard submissions from Miss Archibald on the application. She referred to the updated rent statement produced and confirmed that the Applicant sought an order in the increased amount of £7662.71. The Tribunal explained that the procedure for increasing the sum claimed was contained within Rule 14A of the Rules. This required an application to increase the sum to be made at least 14 days prior to the CMD and intimated to the Respondent in order to provide him with notice. On that basis, the Tribunal would be restricted to the sum stated in the application if it were to make an order following the CMD.
- 7 The Tribunal asked if the Applicant wished the opportunity to submit a request for amendment under Rule 14A, in which case the CMD could be adjourned. Miss Archibald explained that she would require to take instructions from the Applicant on this point. The Tribunal therefore adjourned the CMD to allow her to do so.
- 8 The CMD resumed and Miss Archibald confirmed that the Applicant wished to adjourn the CMD to make an application for amendment. Miss Archibald advised that the Applicant would seek to amend the claim to introduce the costs of repairs required after the termination of the tenancy. The Tribunal therefore determined to adjourn the CMD.

- 9 Following the CMD the Tribunal issued a Direction requiring the Applicant to submit a request for amendment no later than 31 July 2025. On 31 July 2025 the Tribunal received written representations from the Applicant requesting the sum claimed be increased to £7392.71 together with an updated rent statement. The Applicant also sought to amend the application to introduce a claim for repair costs and provided evidence including an invoice for redecoration costs, an estimate for property clearance and a check out inventory.
- 10 The request for amendment was intimated to the Respondent. He was directed to provide any response no later than 14 November 2025. No written representations were received from him.
- 11 A second CMD was scheduled for 24 November 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules.
- 12 The second CMD took place on 24 November 2025 by teleconference. The Applicant was again represented by Miss Archibald. The Respondent also joined the call.
- 13 Miss Archibald confirmed that the Applicant sought an order for payment in the sum of £10,442.71. This included the rent arrears, and the costs of redecorating and clearing the property following the Respondent's departure.
- 14 The Respondent advised that he did not dispute the claim. He had received the request for amendment from the Applicant. He did not submit a response to the Direction as he did not fully understand the Tribunal process. The Tribunal explained that if the Respondent had no objection to the claim, the Tribunal would proceed to make an order for the amount sought by the Applicant. The Applicant would therefore have an order that it could enforce against the Respondent, however this would not prevent the parties from entering into discussions informally regarding a payment plan. The Tribunal asked the Respondent if he wished time to take any advice on the application. The Respondent confirmed that he did not and that he was content for the Tribunal to make the order.

### **Findings in fact**

- 15 The Applicant is the owner and landlord, and the Respondent was the tenant, of the property in terms of a private residential tenancy agreement.
- 16 The contractual rent for the property was £450 per month.
- 17 The tenancy between the parties terminated on 1 June 2025.
- 18 As at the date of termination, rent arrears in the sum of £7392.71 had accrued.
- 19 Following the termination of the tenancy the Applicant incurred costs in redecorating the property and clearing items left by the Respondent in the sum

of £3050. The Respondent is liable to pay the costs under the terms of the tenancy agreement between the parties.

### **Reasons for decision**

- 20 The Tribunal was satisfied it had sufficient information to make relevant findings in fact based on the oral submissions and documentary evidence before it. The Respondent did not oppose the application and the Tribunal was therefore satisfied it could reach a decision in the absence of a hearing under rule 18 of the Rules.
- 21 The Tribunal accepted based on the documentary evidence before it that the Respondent was liable to pay £10,442.71 to the Applicant under the terms of the tenancy agreement between the parties. The Respondent did not dispute the claim and the Tribunal was satisfied that the request for amendment of the application had been made in accordance with the provisions of rules 14 and 14A of the Rules. The Tribunal therefore made an order for payment in that sum.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# Ruth O'Hare

**24 November 2025**

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**Legal Member/Chair**

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**Date**